IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4721 of 1994

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAYMON GLUES & CHEMICALS

Versus

STATE OF GUJARAT

Appearance:

MR MC BHATT for Petitioner No. 1

MR HL JANI, AGP, for Respondent No. 1

RULE SERVED for Respondent No. 2-4

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 12/04/2004

ORAL JUDGEMENT

1. The petitioner has challenged the order of fixing the rent of the disputed land passed by the respondent no.2 and the consequential order passed by respondent no.3 demanding the payment of taxes from the petitioner.

2. In the year 1963 the petitioner made a request to the Government to grant part of land bearing survey no.857-A admeasuring As.22-22 gs for discharging treated affluent water from the petitioner's factory. The Government granted the request of the petitioner and the land was given on lease for a period of 30 years from 12.2.1963. The rent fixed for the said 30 years was Rs.105 per year over and above other levies like taxes, cess, etc. which came to Rs.315/- per year. Thus, the petitioner was paying Rs.420/- per year towards rent and other taxes in respect of the said land. According to the petitioner, the petitioner installed a pipeline of few kilometers from the factory site upto the land in question for the purpose of discharging the treated affluent water from the factor.

3. The aforesaid lease expired on 12.2.1993. Before expiry of the lease i.e. on 11.2.1993, the petitioner applied to the Revenue Authorities requesting to grant the land to the petitioner as the petitioner needed the land on permanent basis. In the alternative the petitioner prayed that the land may be granted on long term basis. The District Collector, respondent no.2 herein, passed an order on 20th July 1993 granting lease of the land to the petitioner for a period of ten years commencing from 11.2.1993. The District Collector has also fixed yearly rent of the land at the rate of Rs.30,114/- on the basis of 15% of the market value of the land. Thereafter the respondent no.3 issued recovery notice on 7th February 1994 demanding a sum of Rs.1,20,456/- which includes Rs.90342 towards land revenue, Rs.22585.50 towards education cess and Rs.7528.50 towards panchayat tax. The present petition has been filed challenging the fixation of rent which is exorbitant in the opinion of the petitioner.

4. While issuing notice, this Court had granted ad interim relief on condition of depositing Rs.25000/- and thereafter the petition was admitted on 13th September 1994 and the interim relief was confirmed.

5. Mr. M.C. Bhatt for the petitioner submitted that the fixation of rent is very excessive and the same has been fixed without giving any opportunity of hearing to the petitioner. According to him, the authority has not considered the fact that the petitioner has developed the land and that the petitioner has spent huge amount for such development. He further contended that the authorities,while renewing the rent, ought to have taken into consideration the rent which was fixed earlier.

6. Mr. HL Jani, learned AGP, submitted that the lease was for a period of 10 years, which is already expired. However, Mr. Jani could not point out from the record that the rent was fixed after hearing the petitioner, and after taking into consideration the expenditures already incurred by the petitioner. Therefore, prima facie it is clear that the rent was fixed without affording any opportunity of hearing to the petitioner and without taking into consideration the facts and circumstances of the case. Therefore, in the interest of justice, the matter is required to be remanded to the Collector for fresh decision after hearing the petitioner in this regard.

7. Mr. M.C. Bhatt further submitted that the Collector may also decide the renewal application without being influenced in any manner by the factum of the present proceedings initiated by the petitioner.

8. Accordingly the petition is partly allowed. The impugned demand notice at Annexure-B is quashed and set aside. The matter is remanded to the Collector for taking a fresh decision in respect of lease rent for the period in question after hearing the petitioner. The petitioner shall approach the Collector within four weeks from today and it will be open for the petitioner to produce all relevant documents in support of his contentions. The Collector shall pass appropriate orders within two months thereafter after hearing the petitioner and considering the documents produced by the petitioner. The conditions fixing the rent is suspended till the matter is heard and decided by the Collector. It is clarified that the fresh decision on lease rent will be applicable with effect from the year 1993. After the decision, the amount already paid by the petitioner shall be adjusted against the payment , if any, to be made by the petitioner. It is directed that the Collector shall also independently consider the application of the petitioner for renewal of the licence without in any way being prejudiced by the filing of the present petition and the Collector shall also keep in mind the fact that the petitioner has already invested a huge amount for development of the land, that number of employees have also been employed in the unit and that the petitioner is complying with the requirements of law. Rule is made absolute to the aforesaid extent with no order as to costs. Direct service is permitted.

[K.S. JHAVERI, J.]

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